

**SFA**



BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bills 915 and 916

Sponsor: Senator Jack Welborn (Senate Bill 915)

Senator Nick Smith (Senate Bill 916)

Committee: Criminal Justice and Urban Affairs

Date Completed: 5-10-90

SUMMARY OF SENATE BILLS 915 and 916 as introduced 4-5-90:

Senate Bills 915 and 916 would create the "Comprehensive Community Corrections Program Act" and the "Community Corrections Complex Act", respectively, to provide for the housing of certain State prisoners in county correctional facilities and to provide for the creation and operation of community corrections complexes. The bills are tie-barred.

Senate Bill 915

Funding Agreements

Beginning on October 1, 1990, the Department of Corrections (DOC) would have to provide funding to a county that chose to enter into an agreement under the bill for the housing of State prisoners transferred to that county. Such an agreement would have to be made with the State Office of Community Alternatives, which was created by the Community Corrections Act, and would have to provide for all of the following:

- Procedures for the payment of State funds and reporting procedures regarding the county's use of those funds.
- Procedures and responsibilities pertaining to the housing of State prisoners in county facilities, including the county's right to refuse to accept a prisoner or return a prisoner to the DOC.
- The services and programs required to be provided by the county to State prisoners.
- State indemnification for civil liability.
- Any other provisions considered necessary by the Office for the funding, construction, and operation of a community corrections complex or the transfer and housing of State prisoners in county correctional facilities.

Funding could be granted to a county for housing prisoners who had a minimum sentence of up to 24 months and who previously had been committed to the DOC from that county. Funding also could be granted for the housing of prisoners under the DOC's jurisdiction who had a minimum sentence of more than 24 months, but such prisoners could not be transferred unless all of the following conditions were met:

- The county had not exceeded the bill's percentage limitations on commitments of State prisoners.
- The number of maximum security beds available for others in the county

jail was more than 10% of the jail's rated capacity.

- The prisoners were transferred to the county for at least 90 days in groups of five.
- The county implemented a prisoner security classification instrument approved by the DOC, and screened all sentenced offenders housed in the county's correctional facilities.

#### Reimbursement

The Office would have to reimburse counties for housing prisoners in county correctional facilities at the rate of \$25 per day for a prisoner whose minimum sentence was no more than 12 months, and who was committed to the DOC's jurisdiction before October 1, 1990; \$40 per day for a prisoner whose minimum sentence was more than 12, but less than 24, months; and \$45 per day for a prisoner whose minimum sentence was more than 24 months. If a State prisoner were housed in a community corrections complex owned and operated by two or more counties, the State could apportion the reimbursement among those counties.

If a county, in any year, committed to the DOC's jurisdiction more than 5% of the number of people convicted in the county of an offense punishable by more than one year's imprisonment who received a minimum sentence of less than one year, or more than 15% of those same offenders who received a minimum sentence of more than 12 but less than 24 months, the county's reimbursement would have to be reduced by an amount equal to the total number of those offenders multiplied by \$40 per day. Such a reduction, however, could not result in a reimbursement owed by a county to the State.

Reimbursement amounts paid to a county would have to be used to enhance and increase the county's community corrections expenditures, including criminal detection, investigation, and apprehension. Reimbursements could not supplant any part of the county's net revenue spent for community corrections, including expenditures for the county sheriff, courts, prosecution, and county correctional facilities.

#### Transfer, Housing, and Care

A county could refuse to accept any State prisoner, and could return a State prisoner to the DOC for disciplinary reasons. A prisoner returned to the DOC for disciplinary reasons whose minimum sentence was no more than 24 months would be counted for purposes of the percentage limitation detailed above. The procedure for a county's review of prisoners proposed for transfer to a county and the reasons for which a county could refuse a transfer or return a prisoner would have to be included in the agreement between the county and the Office of Community Alternatives. A prisoner returned to the DOC for any reason other than to receive medical or mental health services could not be eligible for subsequent placement in a county correctional facility.

Unless the DOC and the county agreed otherwise, a State prisoner would have to be housed in a maximum security, single occupancy cell. If another arrangement were agreed to, the State prisoner could be housed only with other State prisoners, unless the DOC and the county also agreed to allow housing with county inmates. The DOC would have to provide all nonroutine medical care for State prisoners, or reimburse the county for doing so. The county would have to provide, or pay for the provision of, all routine medical and health care. Services that constituted nonroutine medical services would have to be determined

in the agreement between the county and the Office of Community Alternatives.

The DOC, on behalf of the State, would have to agree to indemnify the county against civil damages arising out of acts or omissions of the DOC, the Office, or a State prisoner in connection with the transfer or housing of State prisoners. The terms and extent of indemnification would have to be specified in the agreement between the Office and the county, and the bill provides that it would not confer any liability on the State beyond that stated in the agreement.

### Senate Bill 916

#### Funding of Complexes

Beginning October 1, 1990, the State would have to provide funding for the construction of community corrections complexes. The Office of Community Alternatives would have to enter into agreements with a county or counties that provided for all of the following:

- The integration and implementation of State and local community corrections programs through a community corrections complex.
- Procedures pertaining to the payment of State funds and reporting procedures regarding those funds.
- Design and construction specifications for a community corrections complex.
- The costs, fees, or penalties for which the State would be liable in the case of nonpayment or late payment of State funds.
- Any other provisions that the Office considered necessary for the construction, funding, and operation of a community corrections complex.

In order to be eligible for funding, a community corrections complex would have to be approved by the Office of Community Alternatives and otherwise be authorized for construction on or after the bill's effective date, but no later than October 31, 1992. If approval and authorization were gained by October 31, 1991, the State would have to pay for 100% of the construction costs. If approval and authorization were gained after that date but no later than October 31, 1992, the State would have to provide 50% of the construction costs.

If the Office determined that a county could provide funding by means of long-term borrowing, that method would have to be used, with the State providing the construction costs by paying the debt obligations. If the county could not provide long-term borrowing, the State would have to fund the construction directly.

Two or more counties could construct a community corrections complex for their combined use. The Office would have to approve such an arrangement unless it determined that a particular county would be able to use fully a single-county community corrections complex. The county or counties proposing construction would have to provide a suitable building site and utility service to the site.

#### Design and Operation

A community corrections complex would have to be designed and built according to specifications in the agreement between the Office of Community Alternatives and the county or counties building a complex. A complex would have to contain at least 120 beds that would have to be apportioned among the following classes

of prisoners and probationers:

- State prisoners who were transferred to county correctional facilities under the proposed "Comprehensive Community Corrections Program Act" (Senate Bill 915), and who the counties determined could be appropriately placed in a community corrections complex.
- Persons serving a term of probation under intensive supervision following special alternative incarceration (the "boot camp" program for young offenders).
- Probationers housed under the Office's probation residential program.

A community corrections complex would have to contain counseling and administrative office space for the delivery and integration of both State and local community-based corrections programs. This would include, but would not be limited to, the Office's probation residential program, minimum security work program, intensive probation, the community electronic tether program, offender rehabilitation programs, substance and alcohol abuse counseling, employment training, and related counseling and education programs.

A community corrections complex would be the property of the county or counties that built it, and those entities would be responsible for maintaining the facility. In order to assist counties in planning and construction, the DOC and the Office would have to develop and make available prototype facility plans that detailed at least two sizes of community corrections complexes.

#### State Responsibilities

The bill specifies that the construction of a community corrections complex would not be a State project and would not require payment of the "prevailing wage", unless otherwise required by law. Further, the bill provides that if the State failed to make payments associated with construction that it had agreed to make, or were late in making such payments, the State would be liable for penalties, the county's reasonable attorney fees and court cost resulting from the State's failure or tardiness, and any other penalties or costs stated in the agreement. An action by a county against the State in this regard would have to be brought in the Court of Claims.

Legislative Analyst: P. Affholter

#### FISCAL IMPACT

The bills would have no fiscal impact on either the State or local government during FY 1989-90.

On a full year basis with 100% county participation, the legislation would reduce State GF/GP expenditures by \$64.6 million and result in a \$16.4 million net revenue increase to local government. Based on 67% first-year phase-in, the State would realize a \$43-\$45 million GF/GP expenditure reduction, and local government would realize a net revenue increase of \$10.5-\$11.5 million. Complete details of the program and fiscal analysis are contained in a separate publication, "Senate Proposal for a Comprehensive State/County Community-Based Corrections Program" by Senators Nick Smith and Jack Welborn, of March 1990.

Fiscal Analyst: B. Burghardt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.